

Notice of Allowability

Application No.

09/812,703

Examiner

Vanel Frenel

Applicant(s)

MOORE ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/7/07.
2. ☒ The allowed claim(s) is/are 1-13 and 15-20.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the After-Final on 8/7/07. Claims 1, 8 and 13 have been amended. Claim 14 has been cancelled. Claims 1-13 and 15-20 are pending.

Allowable Subject Matter

2. Claims 1-13 and 15-20 are allowed. The following is an examiner's statement of reasons for allowance.

Independent claim 1 is directed to "modifying behavior of at least one of the plurality of physicians in the healthcare practice for management of the ancillary medical costs responsive to the data gathered in the tangible computer medium; determining whether the ancillary costs of the plurality of physicians in the healthcare practice reached a predetermined level within a preselected period of time; paying funds from the funded incentive pool to the healthcare practice participating in the insurance network when the ancillary medical costs of the plurality of physicians in the healthcare practice have not decreased to the preselected level over the preselected period of time; and distributing predetermined percentages of savings attributed to the modifying behavior of the plurality of physicians ancillary medical cost management if the ancillary medical costs of the plurality of physicians in the healthcare practice have decreased to the preselected level over the preselected period of time".

The closest prior art of record, Leet (6,000,828) discloses method of improving drug treatment.

Changing Physician Behavior Is Tool to Reduce Health Care Costs by
Rosenstein, Alan H., Shulkin, David. HealthCare Strategic Management. Chicago: Sep 1991. Vol.9, Iss. 9; pg.14, 3 pgs.

However, none of the prior art cited above fairly teaches/ suggests "modifying behavior of at least one of the plurality of physicians in the healthcare practice for management of the ancillary medical costs responsive to the data gathered in the tangible computer medium; determining whether the ancillary costs of the plurality of physicians in the healthcare practice reached a predetermined level within a preselected period of time; paying funds from the funded incentive pool to the healthcare practice participating in the insurance network when the ancillary medical costs of the plurality of physicians in the healthcare practice have not decreased to the preselected level over the preselected period of time; and distributing predetermined percentages of savings attributed to the modifying behavior of the plurality of physicians ancillary medical cost management if the ancillary medical costs of the plurality of physicians in the healthcare practice have decreased to the preselected level over the preselected period of time".

Independent claim 8 is directed to "modifying behavior of at least one of the plurality of physicians in the healthcare practice for management of the ancillary medical costs responsive to the data gathered in the tangible computer medium; determining whether the ancillary costs of the plurality of physicians in the healthcare practice

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reached a predetermined level within a preselected period of time; and distributing predetermined percentages of savings attributed to the modifying ancillary medical cost management behavior of the plurality of physicians the ancillary medical costs have decreased to the preselected level over the preselected period of time”.

However, none of the prior art cited above fairly teaches/ suggests “modifying behavior of at least one of the plurality of physicians in the healthcare practice for management of the ancillary medical costs responsive to the data gathered in the tangible computer medium; determining whether the ancillary costs of the plurality of physicians in the healthcare practice reached a predetermined level within a preselected period of time; and distributing predetermined percentages of savings attributed to the modifying ancillary medical cost management behavior of the plurality of physicians the ancillary medical costs have decreased to the preselected level over the preselected period of time”.

Independent claim 13 is directed to “modifying behavior of at least one of the plurality of physicians in the healthcare practice for management of the ancillary medical costs responsive to the data gathered in the tangible computer medium; determining whether the ancillary costs of the plurality of physicians in the healthcare practice reached a predetermined level within a preselected period of time; funding an incentive pool to be paid to the insurance network when the modified medical management practices do not decrease ancillary medical costs of the insurance network to the preselected level over the preselected period of time; and distributing predetermined

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percentages of savings attributed to the modifying behavior of the plurality of physicians the ancillary medical cost management to at least one of the insurance network and the healthcare management consultation group when the ancillary medical costs have decreased to the preselected level over the preselected period of time".

However, none of the prior art cited above fairly teaches/ suggests "modifying behavior of at least one of the plurality of physicians in the healthcare practice for management of the ancillary medical costs responsive to the data gathered in the tangible computer medium; determining whether the ancillary costs of the plurality of physicians in the healthcare practice reached a predetermined level within a preselected period of time; funding an incentive pool to be paid to the insurance network when the modified medical management practices do not decrease ancillary medical costs of the insurance network to the preselected level over the preselected period of time; and distributing predetermined percentages of savings attributed to the modifying behavior of the plurality of physicians the ancillary medical cost management to at least one of the insurance network and the healthcare management consultation group when the ancillary medical costs have decreased to the preselected level over the preselected period of time".

Claims 2-7, 9-12 and 15-20 incorporate the features of the claims 1, 8 and 13 through their dependencies, and are also allowed for the same reasons given above.

A search has been conducted for a foreign prior art, however, none has been found

EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney Jeffrey Whittle on 8/13/07. During the interview Attorney agreed to cancel claim 14. This was inserted in claim 13 after "a preselected period of time;" in line 15 - funding an incentive pool to be paid to the insurance network when the modified medical management practices do not decrease ancillary medical costs of the insurance network to the preselected level over the preselected period of time;- He also pointed out to change the dependency of claim 15 into claim 13 so that the case will be in condition for allowance. No further questions were discussed and no further amendments were made.

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vanel Frenel whose telephone number is 571-272-6769. The examiner can normally be reached on 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zeender Ryan Florian can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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F. RYAN ZEENDER
SUPERVISORY PATENT EXAMINER